

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

RICHARD ENOS, et al.,

Plaintiffs-Appellants,

v.

ERIC HOLDER, et al.,

Defendants-Appellees.

No. 12-15498

**CONSENT MOTION FOR A 30-DAY EXTENSION OF TIME TO FILE  
BRIEF FOR APPELLEE UNITED STATES OF AMERICA**

Pursuant to Ninth Circuit Rule 31-2.2(b), the Government hereby respectfully moves for a 30-day extension of time, to and including September 7, 2012, within which to file its Appellee brief in this case. The reasons for this motion are explained in the accompanying declaration of counsel. Donald E. J. Kilmer, counsel for appellants, has consented to a grant of this motion.

Respectfully submitted,

Michael S. Raab

(202) 514-4053

/s Anisha S. Dasgupta

Anisha S. Dasgupta

(202) 514-5428

Attorneys, Appellate Staff

Civil Division, U.S. Department of Justice

950 Pennsylvania Ave., N.W. Room 7320

Washington, D.C. 20530-0001

JULY 2012

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

RICHARD ENOS, et al.,

Plaintiffs-Appellants,

v.

ERIC HOLDER, et al.,

Defendants-

Appellees.

No. 12-15498

**DECLARATION OF COUNSEL IN SUPPORT OF MOTION FOR 30-DAY EXTENSION OF  
TIME IN WHICH TO FILE THE GOVERNMENT'S RESPONSE BRIEF**

I, Anisha S. Dasgupta, hereby state as follows:

1. This is a pre-enforcement challenge to the applicability and constitutionality of a federal criminal statute limiting the purchase and possession of firearms by a person “who has been convicted in any court of a misdemeanor crime of domestic violence.” 18 U.S.C. § 922(g)(9).

The plaintiffs-appellants are Richard Enos, Jeff Bastasini, Louie Mercado, Walter Groves,

Manuel Monteiro, Edward Erikson, and Vernon Newman. The defendants-appellees are Eric

Holder, as Attorney General of the United States, Robert Mueller, III, as Director of the Federal

Bureau of Investigation, and the United States of America.

2. Under the original briefing schedule issued March 8, 2012, the Brief for Appellant was due June 8, 2012. On May 9, 2012, appellant filed an unopposed motion for a 30-day extension, which this Court granted, making the appellants' brief due July 9, 2012, and appellees' brief due August 8, 2012.

Appellees have not previously sought an extension of their briefing time. With the requested 30-day extension, appellees' brief would be due September 7, 2012.

3. The undersigned counsel for appellees has contacted Donald E. J. Kilmer, counsel for appellants, who has authorized appellees to state that appellants consent to this request for a 30-day extension.

4. The requested extension is necessary in light of the press of other appellate matters. The Department of Justice appellate attorneys with principal responsibility for the appellant's brief in this case are Michael S. Raab and the undersigned counsel, Anisha S. Dasgupta. Mr. Raab and Ms. Dasgupta did not participate in the proceedings below and reasonably need additional time to familiarize themselves with the issues.

During the briefing period, on July 10, 2012, Ms. Dasgupta presented oral argument to the Fifth Circuit in *National Rifle Association v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, No. 11-10959 (5th Cir.), a case challenging the constitutionality of federal criminal

statutes making it unlawful for federal firearms licensees to sell handguns and handgun ammunition to persons under 21 years of age. Ms. Dasgupta was also principally responsible for the Government's opening brief in *Downs v. Army Corps of Engineers*, No. 12-10674-FF (11th Cir.), a post-trial appeal in a case filed under the Federal Tort Claims Act. The Government filed its opening brief in that case on July 19, 2012.

In addition, Ms. Dasgupta has significant responsibility for preparing the Government's petition for certiorari from the court of appeals' decision in *Cloer v. Secretary of Health and Human Services*, No. 2009-5052 (Fed. Cir. Apr. 11, 2012) (en banc), a case presenting the question of whether The National Childhood Vaccine Injury Act permits awards of attorneys' fees in time-barred cases. The Solicitor General has authorized the filing of the petition, which is due to the Supreme Court on August 9, 2012 (as extended).

Likewise during the briefing period, Mr. Raab had significant responsibility for the Government's response brief in *American Public Gas Ass'n v. Department of Energy*, No. 11-1485 (D.C. Cir.), a petition for review from an administrative decision by the Department of Energy. The Government filed its response brief in that case on July 26, 2012.

Mr. Raab also has significant responsibility for the Government's reply brief in *United States ex rel Vavra v. Kellogg Brown & Root, Inc.*, No. 12-40447 (5th Cir.), a qui tam suit

relating to violations of the Anti-Kickback Act. The Government's reply brief in that case is due on August 13, 2012 (as extended).

6. For the foregoing reasons, the requested 30-day extension is necessary to ensure an adequate opportunity to prepare the Government's brief in this case and consult with all interested government components. Ms. Dasgupta and Mr. Raab have exercised diligence in meeting the deadlines in this case. In addition, the court reporter is not in default with regard to any designated transcripts. If this motion is granted, the Government will file its response on or before September 7, 2012.

I declare under penalty of perjury that the foregoing is true and correct.

/s Anisha S. Dasgupta

Anisha S. Dasgupta

(202) 514-5428

Attorney, Appellate Staff

Civil Division, U.S. Department of Justice

Executed on July 27, 2012

## **CERTIFICATE OF SERVICE**

I hereby certify that on July 27, 2012, I electronically filed the foregoing “Consent Motion for a 30-Day Extension of Time To File Appellee’s Brief” with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Anisha S. Dasgupta

Anisha S. Dasgupta

Counsel for Appellee